

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

ANDERSON NAVONE GONZALEZ,

Petitioner,

v.

JOHN TSOUKARIS, Field Office Director of
Enforcement and Removal Operations,
ATLANTA Field Office, Immigration and
Customs Enforcement;
MARKWAYNE MULLIN, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY;
TODD BLANCHE, Acting U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW;
JASON STREEVAL, Warden of STEWART
DETENTION CENTER,

Respondents.

Case No.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS AND COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Agency: A



INTRODUCTION

1. Petitioner, Anderson Navone Gonzalez, is in the physical custody of Respondents at the STEWART DETENTION CENTER. He now faces unlawful detention because the Department of Homeland Security (DHS), in direct collaboration with the adjudicative body with jurisdiction over immigrants (the Executive Office of Immigration Review) (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner's removal proceedings, DHS twice opposed and the Immigration Court ("IJ") denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. *See*, Bond Orders, Exhibit 1.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who

1 previously entered and are now residing in the United States. Instead, such individuals are
2 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
3 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
4 having entered the United States without inspection.

6. Respondents' new legal interpretation is plainly contrary to the statutory
5 framework and contrary to decades of agency practice applying § 1226(a) to people like
6 Petitioner.

7. More importantly, the Government itself has made an abrupt about-face on this
8 issue. Respondents should be judicially estopped from asserting their current interpretation of 8
9 U.S.C. § 1225(b)(2)(A), because they previously prevailed in litigation after asserting the
10 opposite interpretation. As explained in *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial
11 estoppel applies when a party assumes a position in a legal proceeding, succeeds in maintaining
12 that position, and then adopts a contrary position in a subsequent proceeding to gain an unfair
13 advantage. Here, Respondents previously, and successfully, argued that individuals who entered
14 the United States without inspection were subject to detention under § 1226(a), and not §
15 1225(b)(2)(A), and courts accepted that position. Respondents now reverse course and assert that
16 such individuals are subject to mandatory detention under § 1225(b)(2)(A), thereby denying
17 them bond hearings. This shift in legal position undermines the integrity of the judicial process
18 and imposes an unfair detriment on Petitioners who relied on the prior interpretation.
19 Accordingly, Respondents should be estopped from asserting this inconsistent position.

8. Critically, DHS itself alleged in the Notice to Appear that Petitioner "entered the
4 United States without inspection and without parole or lawful admission," a factual assertion that
1 squarely contradicts the Government's current position—adopted wholesale by the Board of
5

1 Immigration Appeals—that Petitioner is ineligible to apply for bond before EOIR. *See* Notice to
 2 Appear, Exhibit 2. This reversal undermines the integrity of the adjudicative process and triggers
 3 the principles of issue preclusion recognized in *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575
 4 U.S. 138 (2015), which require courts to respect agency determinations when the ordinary
 elements of preclusion are met.

5 9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
 6 immediately or be provided a full bond hearing under § 1226(a) within seven days.

7 JURISDICTION

8 10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
 9 STEWART DETENTION CENTER in LUMPKIN, GEORGIA.

1 11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §
 2 1331 (federal question), and Article I, section 9, clause 2 of the United States
 3 Constitution (the Suspension Clause).

4 12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,
 5 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

6 VENUE

7 13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500
 8 (1973), venue lies in the United States District Court for the MIDDLE DISTRICT OF
 9 GEORGIA, the judicial district in which Petitioner currently is detained.

1 14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
 2 Respondents are employees, officers, and agencies of the United States, and because a
 3 substantial part of the events or omissions giving rise to the claims occurred in the
 4 MIDDLE DISTRICT OF GEORGIA.
 5

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

16. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

17. Petitioner, Anderson Navone Gonzalez, is a citizen of Venezuela who has been in immigration detention since the 13th of December, 2025. After arresting Petitioner at Coweta County jail, and transferring him to Stewart Detention Center, ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Due to this erroneous decision, it would be futile for Petitioner to apply to EOIR without the intervention of this honorable Court.

18. Respondent JOHN TSOUKARIS is the Director of the Atlanta Field Office of ICE’s Enforcement and Removal Operations division; however, on information and belief, the DHS is rotating their Field Office Director without publishing a schedule of rotation. As

1 such, JOHN TSOUKARIS or his unknown, unannounced provisional replacement is
2 Petitioner's immediate custodian and is responsible for Petitioner's detention and
3 removal. He or his acting counterpart is named in his or her official capacity.

4 19. Respondent MARKWAYNE MULLIN is the Secretary of the Department of Homeland
5 Security. He is responsible for the implementation and enforcement of the Immigration
6 and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's
7 detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his
8 official capacity.

9 20. Respondent Department of Homeland Security (DHS) is the federal agency responsible
10 for implementing and enforcing the INA, including the detention and removal of
11 noncitizens.

12 21. Respondent TODD BLANCHE is the Acting Attorney General of the United States. He
13 is responsible for the Department of Justice, of which the Executive Office for
14 Immigration Review and the immigration court system it operates is a component
15 agency. He is sued in his official capacity.

16 22. Respondent Executive Office for Immigration Review (EOIR) is the federal agency
17 responsible for implementing and enforcing the INA in removal proceedings, including
18 for custody redeterminations in bond hearings.

19 23. Respondent, Warden JASON STREEVALIS, is employed by the private, for-profit
20 detention corporation contracted by the Government as an agent to confine immigrants at
21 Stewart Detention Center, where Petitioner is detained. He has immediate physical
22 custody of Petitioner. He is sued in his official capacity.

23 **LEGAL FRAMEWORK**

1 24. The INA prescribes three basic forms of detention for the vast majority of noncitizens in
2 removal proceedings.

3 25. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
4 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are
5 generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
6 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or
7 convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

8 26. Second, the INA provides for mandatory detention of noncitizens subject to expedited
9 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
10 referred to under § 1225(b)(2).

1 27. Last, the INA also provides for detention of noncitizens who have been ordered removed,
2 including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

3 28. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

4 29. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
5 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
6 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585.
7 Section 1226(a) was most recently amended earlier this year by the Laken Riley Act,
8 Pub. L. No. 119–1, 139 Stat. 3 (2025).

9 30. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in
10 general, people who entered the country without inspection were not considered detained
11 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and
12 Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
13 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

1 31. Thus, in the decades that followed, most people who entered without inspection and were
2 placed in standard removal proceedings received bond hearings, unless their criminal
3 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was
4 consistent with many more decades of prior practice, in which noncitizens who were not
5 deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer.
6 *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996)
7 (noting that § 1226(a) simply “restates” the detention authority previously found at §
8 1252(a)).

9 32. In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS) explicitly
10 acknowledged that individuals who have already entered the United States and are not
11 apprehended within 100 miles of the border or within 14 days of entry are subject to
12 discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under §
13 1225(b). During oral argument on November 30, 2016, then–Solicitor General Ian
14 Gershengorn stated: “If they are not detained within 100 miles of the border or within 14
15 days... then they are under 1226(a) and not 1226(c)” and further clarified, in response to
16 a question concerning “an alien who has come into the United States illegally without
17 being admitted [and] who takes up residence 50 miles from the border,” the Government
18 responded, “The answer is they are held under 1226(a) and that they get a bond
19 hearing...” Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. ____
20 (2018) (No. 15-1204). DHS reiterated that such individuals “would be held under
21 1226(a)” and cited the administrative record to support that position. *Id.* These statements
22 reflect DHS’s prior litigation stance that § 1226(a) governs detention for noncitizens who
23 have entered and are residing in the United States, a position directly contrary to the

1 agency's current interpretation applying § 1225(b)(2)(A) to such individuals. Having
 2 prevailed in *Jennings* after taking this position, they should be estopped from taking the
 3 contrary position now simply because their political or litigation interests have changed.
 4 Estoppel in this case is necessary to preserve the predictability inherent in the rule of law
 5 and due process under the Fifth Amendment, as well as to protect the integrity of the
 6 judicial system.

7 33. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected
 8 well-established understanding of the statutory framework and reversed decades of
 9 practice.

10 34. The new policy, entitled "Interim Guidance Regarding Detention Authority for
 11 Applicants for Admission,"¹ claims that all persons who entered the United States
 12 without inspection shall now be subject to mandatory detention provision under §
 13 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and
 14 affects those who have resided in the United States for months, years, and even decades.

15 35. On September 5, 2025, the BIA adopted this same position in a published decision,
 16 *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
 17 United States without admission or parole are subject to detention under § 1225(b)(2)(A)
 18 and are ineligible for IJ bond hearings.

19 36. Since Respondents adopted their new policies, hundreds of federal courts have rejected
 20 their new interpretation of the INA's detention authorities. Courts have likewise rejected
 21 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

22 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 37. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma,
2 Washington, immigration court stopped providing bond hearings for persons who entered
3 the United States without inspection and who have since resided here. There, the U.S.
4 District Court in the Western District of Washington found that such a reading of the INA
5 is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
6 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F.
Supp. 3d 1239 (W.D. Wash. 2025).

7 38. The vast majority of federal courts have rejected ICE and EOIR's expanded interpretation
8 of the Immigration and Nationality Act's detention provisions. These courts have
9 consistently held that § 1226(a), not § 1225(b)(2), governs the detention authority
1 applicable in these cases. For example, courts in Massachusetts, Arizona, New York,
0 Minnesota, California, and Nebraska have reached this conclusion. See: *Gomes v. Hyde*,
1 No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV 25-02157
1 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937
1 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE
1 (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass. Aug. 19,
2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21, 2025);
2 *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).

1 39. These decisions reflect a clear judicial consensus that the government's reliance on §
3 1225(b)(2) is misplaced in cases involving those whose immigration status lawfully falls
1 under § 1226(a).

4 40. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies
1 the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the

1 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like
2 Petitioner.

3 41. The *Mendoza Gutierrez v Baltasar* case is certified as a class action. Petitioner should be
4 considered a class member. He entered without inspection, was detained on December 25,
5 2023, and released with a Notice to Appear, and has been present and residing in the
6 country for more than two years.

7 42. Section 1226(a) applies by default to all persons “pending a decision on whether the
8 [noncitizen] is to be removed from the United States.” These removal hearings are held
9 under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

10 43. The text of § 1226 also explicitly applies to people charged as being inadmissible,
11 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E).

12 Subparagraph (E)’s reference to such people makes clear that, by default, such people are
13 afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained,
14 “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that
15 absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp.
16 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S.
17 393, 400 (2010)); *see also* *Gomes*, 2025 WL 1869299, at *7.

18 44. Section 1226 therefore leaves no doubt that it applies to people who face charges of being
19 inadmissible to the United States, including those who are present without admission or
20 parole.

21 45. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently
22 entered the United States and were not free to mingle with the general population after
23 being free from official restraint. The statute’s entire framework is premised on
24

1 inspections at the border of people who are “seeking admission” to the United States. 8
2 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
3 detention scheme applies “at the Nation’s borders and ports of entry, where the
4 Government must determine whether a[] [noncitizen] seeking to enter the country is
5 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

- 6 46. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to
7 people like Petitioner, who were encountered at the border and released after a quasi-
8 judicial determination by an immigration official on a form I-220A that Respondent falls
9 under the discretionary arrest provision of § 1226(a) as an uninspected entrant. The
10 Government’s own issuance of an I-220A placing Petitioner in custody under 8 U.S.C. §
11 1226(a) reflects a discretionary, fact-based determination that Petitioner was not subject
12 to mandatory detention under § 1225(b)(2)(A). This quasi-judicial decision was made by
13 DHS at the outset of proceedings, based on the facts available to both parties and
14 Petitioner’s own admissions. Critically, DHS itself alleged in the Notice to Appear that
15 Petitioner “entered the United States without inspection and without parole or lawful
16 admission,” a factual assertion that squarely contradicts the Government’s current
17 position—adopted wholesale by the Board of Immigration Appeals—that Petitioner is
18 ineligible to apply for bond before EOIR. This reversal undermines the integrity of the
19 adjudicative process and triggers the principles of issue preclusion recognized in *B&B*
20 *Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138 (2015), which require courts to
21 respect agency determinations when the ordinary elements of preclusion are met.
- 22 47. On December 18, 2025, the *Bautista et. al v Noem* court issued a final judgment. The Court
23 observes that “the core holding of *Yajure Hurtado* cannot be squared with the MSJ Order.
24
25

1 See *Yajure-Hurtado*, 29 I. & N. Dec. at 220–28 (subjecting noncitizens present in the
 2 United States without inspection to § 1225 and denying them bond hearings for lack of
 3 jurisdiction). In spite of *Yajure Hurtado*, this Court determined that Petitioners and those
 4 similarly situated are not “applicants for admission,” and therefore not subject to
 5 mandatory detention under § 1225. [MSJ Order at 12–17]. See *Loper Bright Enters. v.*
 6 *Raimondo*, 603 U.S. 369, 398–99 (2024) (requiring courts “to ignore, not follow, ‘the
 7 reading the court would have reached’ had it exercised its independent judgment).
 8 Although the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure*
 9 *Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer
 10 tenable.” See *Order Granting in Part and Denying in Part Petitioners’ Ex Parte*
 11 *Application*, 5:25-cv-01873 at 6 (C. D. Cal. 2025).

- 1 48. The *Bautista et al. v Noem* Court declared the following in its Final Judgment: 1. that the
 2 Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to
 3 mandatory detention under § 1225(b)(2); 2. that, pursuant to Defendants’ regulations, see
 4 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained
 5 under 8 U.S.C. § 1226(a), are not subject to mandatory detention under § 1225(b)(2), and
 6 are entitled to consideration for release on bond by immigration officers and, if not
 7 released, a custody redetermination hearing before an immigration judge. See *Final*
 8 *Judgment*, 5:25-cv-01873 at 2 (C. D. Cal. 2025). It vacated the Department of Homeland
 9 Security policy described in the July 8, 2025, “Interim Guidance Regarding Detention
 10 Authority for Applicants for Admission” under the Administrative Procedure Act as not in
 11 accordance with law. 5 U.S.C. § 706(2)(A). Finally, it granted final judgment as to Claims
 12 I, II, and III of the Amended Class Complaint. Id.

1 49. As of February 18, 2026, the decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216, has
2 been vacated under the Administrative Procedure Act (“APA”) in *Maldonado Bautista v.*
3 *Noem*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). The
4 Court stated, “The Court’s initial decision to deny Petitioners’ request to vacate Yajure
5 Hurtado under the APA was an act of judicial restraint: a formality. However, based on the
6 representations Respondents have made to the Court, it is evident that further relief is both
7 necessary and proper. The Court VACATES Yajure Hurtado under the APA”. *Id.* at 16.

8 **FACTS**

9 50. Petitioner entered the United States without inspection and was detained in Eagle Pass,
10 Texas on December 25, 2023. The DHS filed a Notice to Appear with EOIR alleging that
11 Petitioner entered the United States without inspection. *See* Notice to Appear, Exhibit 2.

12 51. Petitioner has resided in the United States in Aurora, Colorado since December 25, 2023,
13 and currently resides physically in Lumpkin, Georgia, where he is detained.

14 52. On or about December 13, 2025, in Coweta County, Georgia, Petitioner was arrested
15 following a guilty plea to minor charges related to a DUI. Petitioner is now detained at
16 the Stewart Detention Center. *See* I-213, Exhibit 3.

17 53. DHS placed Petitioner in removal proceedings before the Stewart Immigration Court
18 pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being
19 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United
20 States without inspection. 212(a)(6)(A)(i) of the Immigration and Nationality Act, as
21 amended, in that you are an alien present in the United States without being admitted or
22 paroled, or who arrived in the United States at any time or place other than as designated
23 by the Attorney General.

1 54. On January 9, the court denied Petitioner's bond redetermination request, stating, "No
2 jurisdiction pursuant to *Matter of Hurtado*". *See*, Bond Orders, Exhibit 1.

3 55. In early March, 2026, Petitioner received a *Maldonado Bautista* class action notice.
4 Pursuant to the notice, on March 9, 2026, Petitioner submitted a parole request to the ICE
5 supervisor at the Stewart Immigration Detention Center. But there was no response to the
6 request. On March 6, 2026, the court again denied jurisdiction for a bond hearing. *See*,
Bond Orders, Exhibit 1.

7 56. On March 20, 2026, Petitioner broke his foot, which required an emergency hospital visit.
8 Petitioner submitted another parole request, which did not receive a response. Petitioner
9 may need surgery to properly heal his foot. He has been unable to shower or use the
bathroom without assistance, and has not received regular medications for his injury.

1 57. Petitioner's detention has not only inflicted profound harm on his mental and physical
0 health, but also on his family, particularly his mother and siblings, who are experiencing
1 emotional and financial hardship in his absence. Petitioner helped to support his family
1 with his work permit. Petitioner was also in the process of completing his GED before he
1 was arrested and then detained while traveling through Georgia.

2 58. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
1 Petitioner's bond request, and his unlawful detention cannot be litigated before that body,
1 who collaborated with the DHS – who is a party to these contested proceedings – to adopt
3 the DHS position wholesale, because such efforts would be futile.

1 59. As a result, Petitioner remains in detention. Without relief from this court, he faces the
4 prospect of months, or even years, in immigration custody, separated from his family and
1 community while his SIJS I-360 application is pending.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

60. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

61. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who received an I-220A and who were subsequently accused by DHS of having “entered” the United States. Those actions by DHS, followed by the Petitioner’s concession to those charges before EOIR, represent a quasi-judicial determination by an agency which precludes further litigation of the issue unless new, material, and previously unavailable facts emerge. Such noncitizens continue to be detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

62. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

Violation of the Bond Regulations

63. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

64. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission,

[noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

65. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

66. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III **Violation of Due Process**

67. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

68. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

69. Petitioner has a fundamental interest in liberty and being free from official restraint.

70. The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates [his/her/their] right to due process.

Judicial Estoppel

1 71. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in
2 the preceding paragraphs as if fully set forth herein.

3 72. The Government is judicially estopped from asserting that Petitioner is subject to
4 mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In prior litigation,
5 including *Jennings v. Rodriguez*, the Government successfully argued that individuals who
6 entered without inspection and were not apprehended near the border or within 14 days
7 were subject to discretionary detention under § 1226(a), not mandatory detention under §
8 1225(b)(2)(A). See *Jennings v. Rodriguez*, No. 15-1204, Tr. of Oral Arg. at 7–8 (Nov. 30,
9 2016). Courts accepted that position. Now, the Government reverses course and asserts the
10 opposite interpretation to deny bond hearings. Under *New Hampshire v. Maine*, 532 U.S.
1 742 (2001), judicial estoppel applies where a party assumes a position, prevails, and then
2 adopts a contrary position to gain an unfair advantage. The Government's reversal
3 undermines the integrity of the judicial process and prejudices Petitioners who relied on
4 the prior interpretation.

1 PRAYER FOR RELIEF

2 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1 a. Assume jurisdiction over this matter;
- 2 b. Order that Petitioner shall not be transferred outside the Middle District of
3 Georgia while this habeas petition is pending;
- 1 c. Issue an Order to Show Cause ordering Respondents to show cause why this
2 Petition should not be granted within three days;

- 1 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
2 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
3 1226(a) within seven days;
- 4 e. Declare that Petitioner's detention is unlawful;
- 5 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
6 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
7 law; and
- 8 g. Grant any other and further relief that this Court deems just and proper.

DATED this 21st of April, 2026

9 //s//Matthew Boles
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7 Attorney for Petitioner
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, DIEBYD ANDRUD ARIAS POBLETE, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 21st day of April, 2026.

//s//Matthew Boles
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